

1 On March 11, 2010, this Court issued an order (“March 11, 2010 Order”) granting
2 the motion to dismiss Plaintiff’s complaint as to Judge Adler on the ground that it is
3 barred by the doctrine of judicial immunity. Section 1983 claims can only be brought
4 against government actors. *See Burnett v. Grattan*, 468 U.S. 42, 45 n.3 (1984) (noting
5 that “42 U.S.C. §1983 confers a private federal right of action for damages and injunctive
6 relief against state actors who deprive any citizen or person within the jurisdiction of the
7 United States of ‘rights, privileges, or immunities secured by the Constitution and
8 laws.’”). Defendant Formaker is not alleged to be a state actor. Thus, Plaintiff’s section
9 1983 claim fails as to defendant Formaker and Plaintiff’s complaint no longer presents a
10 federal question to be addressed by this Court.

11 Furthermore, in the amendment to the complaint, Plaintiff names Defendant
12 Formaker and Does 1-6 in the caption. The Court understands Does 1-6 to be the six
13 employers that Plaintiff alleges are vicariously liable for acts committed by the individual
14 defendants who were named in the complaint. (Am. Compl. at 7.) With the exception of
15 J.P. Morgan Chase Bank, N.A., however, all defendants are alleged to be California
16 citizens. (*Id.*) Plaintiff alleges that he also is a citizen of the State of California. (Compl.
17 at 1.) Accordingly, Plaintiff has failed to allege complete diversity of citizenship. “28
18 U.S.C. § 1332(a) . . . applies only to cases in which the citizenship of each plaintiff is
19 diverse from the citizenship of each defendant.” *Caterpillar Inc. v. Lewis*, 519 U.S. 61,
20 68 (1996); *see also Allstate Ins. Co. v. Hughes*, 358 F.3d 1089, 1095 (9th Cir. 2004)
21 (“Diversity jurisdiction under § 1332 requires complete diversity of citizenship, each of
22 the plaintiffs must be a citizen of a different state than each of the defendants.”).

23 “If the court determines at any time that it lacks subject-matter jurisdiction, the
24 court must dismiss the action.” Fed. R. Civ. P. 12(h)(3). Therefore, the Court hereby
25 issues an order to show cause as to why this action should not be dismissed for lack of
26 subject matter jurisdiction.

27 //

28 //

1 In light of the foregoing:


2 1. Plaintiff is hereby ordered to show cause why the matter should not be
3 dismissed without prejudice for lack of subject matter jurisdiction;

4 2. Plaintiff may file his brief by no later than April 9, 2010; and

5 3. Defendant may file a response within one week after Plaintiff files his brief.
6

7 IT IS SO ORDERED.
8
9

10 DATED: March 12, 2010



DOLLY M. GEE
United States District Judge